

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JEFFREY J. KEE,

Plaintiff,

v.

BLUE LINE DISTRIBUTING, INC.,  
a foreign corporation,

Defendant.

CIVIL ACTION

No.:

07 - 460

2007 JUL 24 AM 9:55

FILED  
CLERK U.S. DISTRICT COURT  
DISTRICT OF DELAWARE

**NOTICE OF REMOVAL  
ON GROUND OF DIVERSITY OF CITIZENSHIP**

TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF DELAWARE:

Defendant Blue Line Distributing, Inc. ("Blue Line") respectfully submits the following Notice of Removal to the United States District Court for the District of Delaware and in support thereof states as follows:

1. There is a certain action presently pending in the Superior Court of Delaware, New Castle County, Delaware bearing docket no. 07C-06-055-MMJ wherein Jeffrey J. Kee is the plaintiff and Blue Line Distributing, Inc. is the named defendant.
2. The Complaint was filed on or about June 4, 2007. A courtesy copy of the Complaint was received by counsel for Blue Line Distributing, Inc. on June 26, 2007. A copy of the Complaint is attached hereto as Exhibit "A" and constitutes all process, pleadings and orders to date in this action.
3. The above-described action is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. §1332, and is one which may be removed to this Court by the defendant herein, pursuant to the provisions of 28 U.S.C.

§1441, *et seq.*, in that it is a civil action between citizens of different countries and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, to wit:

- (a) Plaintiff is a citizen of the State of Delaware; and
- (b) Defendant Blue Line Distributing, Inc. is a foreign corporation organized and existing under the laws of the Province of Canada with its principal place of business located in Ontario, Canada.

4. This Notice of Removal is being filed within the time period required by law under 28 U.S.C. §1446(b).

WHEREFORE defendant Blue Line Distributing, Inc. respectfully requests that this action now pending against it in the Superior Court of Delaware, New Castle County, Delaware, be removed therefrom to this Court.

Respectfully submitted,



Marc Snyder, Esquire  
ID No.: 3791  
Rosen, Moss, Snyder & Bleefeld, LLP  
1813 Marsh Road, Suite D  
Wilmington, DE 19810  
(302) 475-8060

Attorneys for Defendant  
Blue Line Distributing, Inc.

OF COUNSEL:

Veronica W. Saltz, Esquire  
Saltz Polisher P.C.  
993 Old Eagle School Road, Ste. 412  
Wayne, PA 19087

Dated: July 23, 2007

EFiled: Jun 4 2007 1:47P  
Transaction ID 15091448  
Case No. 07C-06-055 MMJ



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
IN AND FOR NEW CASTLE COUNTY

JEFFREY J. KEE,

Plaintiff,

v.

BLUE LINE DISTRIBUTING, INC.,  
a foreign corporation,

Defendant.

)  
)  
)  
) C. A. No. 07C-06-055-MMJ  
)  
) NON-ARBITRATION CASE  
)  
) JURY TRIAL DEMANDED  
)

COMPLAINT

1. The Plaintiff, Jeffrey J. Kee, is a resident of the State of Delaware and resides at 409 Greenhill Avenue, Apt. 1, Wilmington, Delaware 19805.

2. The Defendant Blue Line Distribution, Inc., is a foreign corporation and conducts business at 8175 Lawson Road, Milton, Ontario, Canada M8W 4A3. Upon information and belief, the Defendant conducts business in Delaware and in accordance with 10 Del.C. 3104 service can be made by serving their registered agent The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

3. On or about January 25, 2007, the Plaintiff was at all times herein relevant exercising due care and was stopped on the shoulder of the roadway with his emergency lights activated near the City of Benton, County of Saline, State of Arkansas.

4. At or about the same time and place the decedent, Milivoj Strbac, who was acting in the course and scope of his employment as the agent and/or employee of Blue Line Distributing, Inc., and was proceeding on Interstate 30, near the City of Benton, County of Saline, State of Arkansas, and caused the vehicle he was operating

EXHIBIT "A"

to leave the roadway and thereafter caused his vehicle to strike Plaintiff's vehicle with force and violence.

5. The tortfeasor was negligent in that he:

- (a) Failed to maintain a proper lookout;
- (b) Failed to maintain proper control over his vehicle;
- (c) Operated his motor vehicle in a careless manner in violation of 21 Del.C. §4176(a);
- (d) Operated his motor vehicle in an imprudent manner in violation of 21 Del.C. §4176(a);
- (e) Operated his vehicle without due regard for road and traffic conditions then existing in violation of 21 Del.C. §4176(a);
- (f) Failed to maintain a proper lookout in violation of 21 Del.C. §4176(b);
- (g) Failed to give his full time and attention to the operation of his motor vehicle in violation of 21 Del.C. §4176(b);
- (h) Failed to control the speed of his motor vehicle as was necessary to avoid colliding with another vehicle on the highway in violation of 21 Del.C. §4168;
- (i) Drove on the shoulder of the road.

6. Each of the aforementioned acts of negligence of the tortfeasor is attributable to the Defendant by reason of the doctrine of respondent superior.

7. Each of the aforementioned acts of negligence of the Defendant constitutes the proximate cause of the collision and injuries and damages resulting to the Plaintiff.

8. As a proximate result of the aforesaid negligence of the Defendant, the Plaintiff has suffered the following injuries and damages:

- (a) Personal Injuries all of which may be permanent;
- (b) Pain and suffering;
- (c) Medical expenses not covered by 21 Del. C. §2118, plus future medical expenses.
- (d) Lost wages not covered by 21 Del.C. §2118, plus future lost wages and loss of earning capacity.

WHEREFORE, Plaintiff demands judgment against the Defendant for personal injuries, pain and suffering, past and future medical expenses, past and future lost wages, interest pursuant to 6 Del. C. §2301(d), and court costs.

WEIK, NITSCHKE, DOUGHERTY & COMONOVIO

BY: /S/ GARY S. NITSCHKE I.D. No. 2617  
GARY S. NITSCHKE  
1300 N. Grant Avenue, Suite 101  
P.O. Box 2324  
Wilmington, DE 19899  
Attorney for Plaintiff

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

07-460

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<b>I. (a) PLAINTIFFS</b> Jeffrey J. Kee  <b>(b) County of Residence of First Listed Plaintiff</b> <u>New Castle</u> (EXCEPT IN U.S. PLAINTIFF CASES)  <b>(c) Attorney's (Firm Name, Address, and Telephone Number)</b> <u>Gary S. Nitsche Weik, Nitsche, Dougherty &amp; Compton</u> <u>1300 N. Grant Avenue, Suite 101</u> <u>Wilmington, DE 18989</u>	<b>DEFENDANTS</b> Blue Line Distributing, Inc.  <b>County of Residence of First Listed Defendant</b> (IN U.S. PLAINTIFF CASES ONLY)  NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.  <b>Attorneys (If Known)</b> <u>Marc H. Snyder, Esquire</u> <u>Rosen, Moss, Snyder &amp; Bleeckfeld, L.L.P., 1813 Marsh Road,</u> <u>Suite D, Wilmington, DE 19810</u>
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<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)  <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only) <table style="width: 100%;"> <tr> <td style="width: 33%;">Citizen of This State</td> <td style="width: 10%;">PTF <input checked="" type="checkbox"/> 1</td> <td style="width: 10%;">DEF <input type="checkbox"/> 1</td> <td style="width: 33%;">Incorporated or Principal Place of Business In This State</td> <td style="width: 10%;">PTF <input type="checkbox"/> 4</td> <td style="width: 10%;">DEF <input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input checked="" type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input checked="" type="checkbox"/> 6
Citizen of This State	PTF <input checked="" type="checkbox"/> 1	DEF <input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	PTF <input type="checkbox"/> 4	DEF <input type="checkbox"/> 4														
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5														
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input checked="" type="checkbox"/> 6														

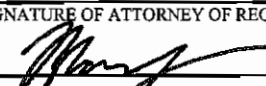
<b>IV. NATURE OF SUIT</b> (Place an "X" in One Box Only) <b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise  <b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability  <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>FOREFEITURE/PENALTY</b> <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<b>OTHER STATUTES</b> <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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<b>V. ORIGIN</b> (Place an "X" in One Box Only) <input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court <input type="checkbox"/> 4 Reinstated or Reopened <input type="checkbox"/> 5 Transferred from another district (specify) <input type="checkbox"/> 6 Multidistrict Litigation <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment
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<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <u>28 USC Section 1332</u>  Brief description of cause: <u>Motor Vehicle/Tractor Trailer personal injury</u>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	<b>DEMAND \$</b>	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	(See instructions): JUDGE	DOCKET NUMBER
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DATE <u>7-23-07</u>	SIGNATURE OF ATTORNEY OF RECORD 
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FOR OFFICE USE ONLY	RECEIPT #	AMOUNT	APPLYING IFP	JUDGE	MAG. JUDGE
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07-460

ROSEN, MOSS, SNYDER  
& BLEEFELD, L.L.P.

Attorneys at Law

MARC H. SNYDER\*\*†  
EMAIL: msnyder@rmshlaw.com

\* MEMBER PA BAR  
+ MEMBER NJ BAR  
† MEMBER DE BAR

1813 MARSH ROAD  
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NEW JERSEY OFFICE

GLENDAL E EXECUTIVE CAMPUS  
1000 WHITEHORSE ROAD  
SUITE 914  
VOORHEES, NJ 08043  
(856) 772-0040  
FAX NO. (856) 772-9202

PENNSYLVANIA OFFICE

8380 OLD YORK ROAD  
SUITE 410  
ELKINS PARK, PA 19027  
(215) 935-0315  
FAX NO. (215) 935-0326

BRISTOL OFFICE

132 MILL STREET  
BRISTOL, PENNSYLVANIA 19007  
(215) 935-0315  
FAX NO. (215) 935-0326

July 23, 2007

Via Overnight Mail

U.S. District Court for the  
District of Delaware  
844 North King Street  
Room 4209  
Lock Box 18  
Wilmington, DE 19801

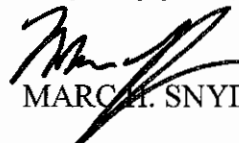
RE: Jeffrey J. Kee v. Blue Line Distributing, Inc.

Dear Sir/Madam:

Enclosed please find an original and three (3) copies of Defendant's Notice of Removal from State Court to Federal Court. Please file the original and send the time-stamped copies to my office in the enclosed, self-addressed envelope. I have also enclosed check number 1027 in the amount of \$350.00 which represents the filing fee.

Should you have any questions, please feel free to contact me.

Very truly yours,

  
MARC H. SNYDER

MHS/flk

Enclosures

cc: Gary S. Nitsche, Esquire (w/enclosures)  
Veronica Saltz, Esquire (w/enclosures)

FILED  
U.S. DISTRICT COURT  
DISTRICT OF DELAWARE  
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